HOUSE . . . . . No. 1872

By Ms. Balser of Newton, petition of Ruth B. Balser and others relative to children's mental health. Mental Health and Substance Abuse.

The Commonwealth of Massachusetts

PETITION OF:

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In the Year Two Thousand and Seven.

AN ACT RELATIVE TO CHILDREN'S MENTAL HEALTH.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 6 of the General Laws is hereby amended by inserting after section 214 the following new section:—

Section 215. The mental health commission for children, established by section 77 of chapter 177 of the acts of 2001, shall be made permanent for the purpose of advising the governor and the commissioner of mental health on implementation of the recommendations contained in the commission's report dated July 1, 2005 and on any such future reports developed by the commission. The commission shall prepare and issue a public report concerning the implementation of such recommendations, on an annual basis, and shall file a copy of such report with the senate and house committees on ways and means, the committee on mental health and substance abuse, the mental health legislative caucus, and the children's legislative caucus.

SECTION 2. Chapter 6A of the General Laws is hereby amended by inserting after section 16O the following new section:—

Section 16P. (a) There shall be a children's behavioral health research and evaluation council within, but not subject to control of, the executive office of health and human services. The council shall be responsible for creating and sustaining the capacity within the executive office and its constituent agencies for annually determining the demand, delivery, cost, effectiveness, and gaps in the behavioral health services for children and adolescents across state agencies. The work of the council shall be designed to promote high-quality, safe, effective, timely, efficient, equitable, family-centered, culturally competent and linguistically appropriate behavioral health care for children through research and reporting and other related activities, including, but not limited to, training, accountability, program evaluation, and continuous quality improvement. The council shall receive staff assistance from the executive office of health and human services and may, subject to appropriation, employ such additional staff or consultants as it may deem necessary.

(b) The council shall consist of the secretary of health and human services, the auditor of the commonwealth or his designee, the inspector general or his designee, the attorney general or his designee, the commissioners of mental health, social services, early education and care, youth services, mental retardation, education, public health, youth services, insurance, the director of the

office of Medicaid and persons to be appointed by the governor, at least 1 of whom shall be a board certified pediatrician, at least one of whom shall be a board certified child psychiatrist, at least one of whom shall be a licensed social worker, at least 1 of whom shall be a parent or a consumer of children's behavioral health services, at least 1 of whom shall be a representative of a hospital with specialized expertise in the care of children, at least 1 of whom shall be representative of hospitals who provide inpatient substance abuse and or behavioral health services to children, at least 1 of whom shall be representative of an organization with expertise in implementing evidence based children's behavioral health services, at least 1 of whom shall be an expert in health care policy from a foundation or academic institution, 1 of whom shall represent a non-governmental purchaser of health insurance and 1 of whom shall represent a community-based children's services provider. The nongovernmental appointees shall serve staggered 3-year terms. The council shall be chaired by the secretary of health and human services.

(c) The council shall develop and coordinate the implementation of evidence-based measures of effective children's behavioral health services. For this purpose, the council shall identify the steps needed to achieve this goal; estimate the cost of implementation; project the anticipated short-term or long-term financial savings achievable to the commonwealth, and estimate the expected improvements in the behavioral health status of children in the commonwealth.

(d) The council may, subject to chapter 30B, contract with an independent research organization to provide the council with technical assistance related to its duties including, but not limited to, the development of research and evaluation programs, evidence-based analyses, performance measurement benchmarks, the design and implementation of children's behavioral health interventions and the preparation of reports, including any reports as required by this section. The independent health care organization shall have a history of demonstrating the skill and expertise necessary to:

(1) collect, analyze and aggregate data related to costs and effectiveness across the behavioral health care continuum;

(2) identify, through data analysis quality improvement areas;

(3) work with Medicare, MassHealth, other payers' data and clinical performance measures;

(4) collaborate in the design and implementation of evidence-based improvement measures;

(5) establish and maintain security measures necessary to maintain confidentiality and preserve the integrity of the data; and

(6) design and implement behavioral health care quality improvement interventions with behavioral health care service providers. To the extent possible, the independent organization shall collaborate with other organizations that develop, collect and publicly report behavioral health care cost and quality measures; and

(7) recommend and support strategies to increase the numbers of children's mental health providers with an emphasis on reducing health disparities.

(e) Any independent organization under contract with the council shall develop and update on an annual basis a reporting plan. The reporting plan shall be consistent with the requirements of subsections (a) and (b).

(f) The council shall develop performance measurement benchmarks for its goals and publish such benchmarks annually. Any data reported by the council should be accurate and evidence-based, and not imply distinctions where comparisons are not statistically significant.

(g) The council shall review and file a report, not less than annually, with the joint committee on children's mental health, the joint committee on health care finance and the clerks of the house and senate on its progress in achieving the goals of improving the effectiveness of children's behavioral health programs and filling gaps in the availability of such programs for children who qualify for and need such services. This report shall include an analysis of the racial and ethnic disparities that exist in the availability of appropriate behavioral health services.

(h) The council may recommend legislation or regulatory changes, including recommendations for the commonwealth's behavioral health services payment methodologies to promote the behavioral health care quality and cost containment goals set by the council, and the council may promulgate regulations under this section.

(i) Subject to appropriation, the council may disburse funds in the form of grants or loans to assist members of the children's behavioral health care industry in implementing the goals of the council.

(j) All meetings of the council shall conform to chapter 30A, except that the council, through its bylaws, may provide for executive sessions of the council. No action of the council shall be taken in an executive session.

(k) The members of the council shall not receive a salary or per diem allowance for serving as members of the council, but shall be reimbursed for actual and necessary expenses reasonably incurred in the performance of their duties. The expenses may include reimbursement for reasonable travel and lodging expenses while engaged in council business.

(l) The council may, subject to chapter 30B and subject to appropriation, procure equipment, office space, goods and services, including the development and maintenance of a website

SECTION 3. Chapter 6A of the General Laws is hereby amended by inserting after section 16P the following new section:—

Section 16Q. (a) There shall be established within the executive office of health and human services an office of compliance coordination headed by a compliance coordinator and adequately staffed to provide administrative oversight, monitoring, and implementation of the remedial plans and court orders in *Rosie D. v. Romney*, 410 F. Supp. 18 (D. Mass. 2006).

(b) The compliance coordinator shall be appointed by and report directly to the secretary of health and human services and shall report directly to the secretary of health and human services.

(c) The compliance coordinator shall facilitate compliance with the plans and orders in *Rosie D. v. Romney* across executive office of health and human services agencies and shall have the necessary authority to review, evaluate, design, and implement activities to facilitate compliance with remedial plans and court orders by executive office of health and human services agencies and employees.

(d) The compliance coordinator shall be the primary liaison to any court-appointed monitor, special master or other appointed

agent of the court in *Rosie v. Romney* and shall assist any such court officer to have access to all information, data, reports or other related documents that in the possession of executive office of health and human services agencies or their contractors and are necessary to monitor compliance with court orders.

(e) The compliance coordinator shall issue reports at least quarterly that shall describe executive office of health and human services activities related to compliance with the remedial orders of the court and shall identify any obstacles to compliance. All reports issued by the compliance coordinator shall be filed with the senate and house committees on ways and means, the joint committee on mental health and substance abuse and the joint committee on health care financing.

(f) Any expenditure made pursuant to this section shall be regarded as an expenditure under the Commonwealth's title XIX Medicaid plan.

SECTION 4. Chapter 6A of the General Laws is hereby amended by inserting after section 16Q the following new section:—

Section 16R. (a) As used in this section, the following words shall, unless context clearly requires otherwise, have the following meanings:—

"Child", a person who has not reached 22 years of age. Where action is to be taken at a multi-agency hearing by a child or on its behalf, it shall be taken by such child if age 18 or older unless such child has been determined to be incompetent. For younger children the action shall be taken by the parent or parents or legal guardian, provided that, where the rules of any covered agency recognize that children under age 18 have competence to make certain decisions, such rules shall be followed where they apply.

"Child with complex needs", a child with a diagnosable behavioral disorder, emotional disturbance, mental retardation, developmental disability, or multiple disabilities that are so severe and long-lasting that it seriously interferes with the child's functioning in family, school, community or other major life activities and, by reason of such severe disability, the child needs more than a service provided by a single agency or facility such as out-patient behavioral health services, in-patient behavioral health services,

or other behavioral health services of brief duration and, in addition to or instead of such services, needs services that are provided or arranged by multiple covered agencies and a comprehensive set of services provided through a coordinated plan of care.

"Covered agency", any executive branch office, department or other division of the Commonwealth that provides behavioral health services to children, including state contracted service providers and including, but not limited to, the department of mental health, department of mental retardation, the office of Medicaid, the department of education, the department of early education and care, the department of social services, the department of public health and the department of youth services.

"Developmental disability", a severe, chronic disability of an individual that:

(1) is attributable to a behavioral or physical impairment or combination of behavioral and physical impairments;

(2) is manifested before the individual attains age 22;

(3) is likely to continue indefinitely;

(4) results in substantial functional limitations in major life activities; and

(5) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of extended duration and are individually planned and coordinated.

"Diagnosable mental disorder", a disorder that meets the diagnostic criteria as described in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association or the International Classification of Diseases and Related Health Problems.

"Emotional disturbance", a long-lasting condition that severely affects a child's behavior and functioning in any of the following respects:

(1) an inability to function in family, school, or community that cannot be explained by intellectual sense rate or general health factors;

(2) an inability to build or maintain satisfactory interpersonal relationships with peers and adults;

(3) inappropriate behavior or feelings under normal circumstances;

(4) a pervasive mood of unhappiness or depression; and

(5) the persistence of physical symptoms of fear associated with personal, family, or school problems.

"Mental retardation", significant sub-average general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period that adversely affects a child's functioning in school, family, and community settings

"Multi-Agency Hearing (MAH)", an administrative hearing triggered by the filing of a complaint by or on behalf of a child with complex needs and presided over by a hearing officer appointed by the executive office of health and human services. The hearing shall be conducted subject to the rules outlined herein and any executive office of health and human services regulations promulgated pursuant to subsections (e), (f), (g) and (h).

"Multi-agency team (MAT)", geographically-based teams established by the executive office of health and human services pursuant to section (b) and composed of representatives of 2 or more Covered Agencies meeting regularly to provide coordinated services to children requiring services from more than one covered agency.

"Multiple disability", the co-occurrence of the disabilities defined in this section, such as, but not limited to, mental retardation and emotional disturbance or mental illness and substance abuse, the combination of which adversely affects a child's functioning to the extent that the child's service needs cannot be met by attributing the functional impairment to a single diagnosis or condition.

(b) The executive office of health and human services shall establish multi-agency teams (MAT) and promulgate rules and regulations consistent with the provisions of this section for their composition, procedures, responsibilities and powers. Any person may refer a child with complex needs to the appropriate MAT.

(c) Any covered agency that conducts an intake assessment, eligibility determination, or other assessment of behavioral health needs of children shall provide or refer the child for a diagnostic assessment sufficient to determine whether the child is a child

with complex needs. The covered agency shall notify the child and the parents or guardian of the results of the diagnostic assessment and, if the child is identified as a child with complex needs, the covered agency shall inform the child and the parent or guardian that they may request referral to an MAT for a comprehensive determination of needs and the development and implementation of a MAT service plan.

(d) (1)Any participant in a MAT proceeding concerning a child with complex needs not involving a local educational agency which a comprehensive review by the MAT has not resulted in a decision agreeable to all participants may request either: (i) a multi-agency hearing (MAH); or (ii) that the executive office of health and human services agency commissioners resolve the dispute at the next meeting of such commissioners following at least 10 days after the written request for action by such commissioners. If no resolution of the problem is produced at such meeting of the commissioners or if the resolution reached is not satisfactory to a child seeking services or his parents, any participant in the MAT proceeding may initiate a MAH.

(2) If a MAT proceeding concerning a child with complex needs which failed to reach a solution was one in which a local educational agency was involved and if the local educational agency is a party to the disagreement, any party to the proceeding may proceed either: (i) pursuant to Section 3 of Chapter 71; or (ii) to request a MAH pursuant to the provisions hereof.

(3) In either case, the moving party shall not be subject to a requirement of exhaustion of remedies as a condition to invoking the remedy chosen, except that a party to a MAT proceeding shall not invoke the MAH procedure herein provided for until that MAT procedure has failed to produce a solution acceptable to all parties within 45 days of the first date such problem was considered by the MAT.

(e) The executive office of health and human services shall, following a reasonable period for comment by the covered agencies, adopt regulations consistent with the following to govern the MAH for children with complex needs.

(f) A MAH shall be initiated by a complaint filed by or on behalf of a child with complex needs. Such complaint shall describe succinctly:

(1) the facts supporting the petitioner's eligibility to request a MAH;
(2) one or more permissible grounds for the complaint;
(3) the parties necessary for a resolution of the problem; and
(4) the relief requested.

The complaint shall identify whether or not the problem described has previously been reviewed by a MAT and whether it included all the parties identified in the complaint as necessary to a resolution of the problem.

(g) A child, or the child's parent or guardian, or a covered agency acting on behalf of a child may file a complaint alleging any of the following matters:
(1) failure of a covered agency to find an individual eligible for services;
(2) failure of a covered agency to provide services to an individual it has found eligible for its services;
(3) failure of covered agency to comply with controlling statutes, regulations, policies, guidelines or any other written procedure or unwritten, but established practice that governs the actions of that Agency;
(4) the decision of a covered agency to suspend, reduce or terminate services, or the actions of the covered agency that have the effect of doing so;
(5) the decision of a covered agency that determines case coordination allocation and assignment among covered agencies;
(6) a challenge to the identification by a covered agency of the least restrictive setting;
(7) a challenge to a developed plan for the delivery of services by one or more covered agency; or
(8) a challenge to the decision of one or more covered agency regarding the rights of a child/parent/guardian with respect to the child's care and services.

(h) If the problem described in the complaint has not previously been reviewed by a MAT, the executive office of health and human services shall appoint a mediator, as described in subsection (j) who shall summon the child or the child's representative and the other parties identified in the complaint to a mediation meeting to be held on not less than 10 days prior advance notice or more than 20 days from the filing of the complaint.

(i) Within 5 days of the filing of the complaint or 5 days after the failure of mediation pursuant to subsection (h) the executive office of health and human services shall assign a hearing officer. The hearing officer shall fix a date on not less than 10 days and not more than 20 days prior advance notice for a pre-hearing conference. At least 5 business days before such conference each party, other than the complainant, shall deliver to all participants a written response to the complaint, and all parties shall deliver lists of their principal witnesses and all covered agencies shall make available to the other parties all documents relevant to the issues raised by the complaint. The hearing officer may limit the issues to be heard at the MAH and may make other rulings reasonably designed to expedite and facilitate the MAH, including rulings on production of documents. Upon agreement of the parties, the hearing officer may conduct an informal hearing.

(j) MAH hearing officers and mediators shall meet all the following qualifications.

(1) The individual has graduated from a law school accredited by the Commonwealth of Massachusetts or the American Bar Association;

(2) The individual is a United States or naturalized citizen;

(3) The individual has successfully completed an approved, basic mediation training of at least thirty hours and has met at least one of the following criteria: (i) has at least 1 year of professional experience as a mediator; (ii) is accountable to a dispute resolution organization which has been in existence for at least 3 years; or (iii) has been appointed to mediate by a judicial or governmental body; and

(4) The individual has had training or experience in the field of behavioral health.

(k) Absent good cause, the MAH shall be scheduled to commence within 10 days of the pre-hearing conference.

(l) The hearing officer is empowered to:

(1) issue subpoenas;

(2) place witnesses under oath;

(3) accept into the record and rule upon the acceptability of evidence. Formal rules of evidence shall not be followed, but the parties shall limit reliance on hearsay as proof of critical issues to be resolved;

(4) order initial or additional evaluations of the person whose service needs are in question. Such evaluations shall be subject to the provisions hereof regarding confidentiality;

(5) issue such urgently needed interim orders for provision of or continuation of agency services as may be necessary for the health and safety of the child involved in the proceeding. Such orders shall remain in place, unless modified by the Hearing Officer until the final resolution of the MAH proceeding;

(6) dismiss a party, if it clearly appears such party is not necessary to a resolution of the problem;

(7) join a covered agency or a local educational agency if in the judgment of the hearing officer such agency is likely to be necessary to the resolution of the problem;

(8) maintain jurisdiction for the purposes of implementation or modification of an order; and

(9) issue such other rulings as are appropriate to ensuring a full, fair and orderly hearing.

(m) In addition to the powers of the MAH hearing officer described in subsection (l), the MAH hearing officer has the authority:

(1) to order a covered agency to fund or provide any service or take any other action authorized by or consistent with the statutes, regulations, policies, guidelines or any other written procedure or unwritten, but established practice that governs the actions of that Agency;

(2) to order a Covered Agency to cease from any actions occurring in the case that are not consistent with the statutes, regulations, policies, guidelines, written procedure or any other unwritten, but established, practice that governs the actions of that Agency;

(3) to designate that a Covered Agency assume primary or ancillary responsibility for the coordination of service delivery for the child who is the subject of the Complaint and to require a Covered Agency participate in planning and implementation of service delivery;

(4) to issue orders recognizing or clarifying the various rights and/or responsibilities, consistent with any provision of state or federal law, of any of the parties to the case, including the child himself;

(5) to keep a case under jurisdiction/order a Covered Agency to report back to the Hearing Officer on progress/continue a case;

(6) to order other relief necessary to ensure the health and safety of the child.

(n) The hearing officer, after hearing from the parties, will identify the issues to be addressed in an evaluation.

(1) The purpose of the evaluation is to provide information to the hearing officer and the parties to properly conduct the MAH and/or to identify, develop and provide appropriate services for the child;

(2) The evaluation may be of the child himself, of programs or services being provided to or considered for the child, of the practices or activities of a covered agency as they relate to the particular situation, or of any other feature of the case for which the hearing officer determines that a professional assessment would be beneficial;

(3) The evaluation of a child may be conducted only with the permission of parent or guardian of a minor child or, when appropriate of the youth, or of an individual age 18 or older;

(4) Payment for the evaluation shall be made by a covered agency, as determined by the hearing officer. Before seeking such funding, the parties must first identify and exhaust available insurance or other entitlements for funding the evaluation;

(5) The evaluation will be available, upon completion, to all parties to the MAH;

(6) The evaluator must be a certified and licensed professional and must use accepted clinical tools;

(7) The evaluator may venture his or her opinion, but may not be relied upon to answer questions of legal interpretation;

(8) The evaluation may not be used without the consent of the parent or guardian, or child over age 18, for purposes beyond the MAH proceeding.

(o) All proceedings and all evaluations produced pursuant to subsection (l) (4) or pursuant to subsection (c) shall be confidential to protect the privacy interests of the child. The records of the proceedings, evaluations and decisions shall be redacted to preserve confidentiality.

(p) There shall be an audio-record preserved of the MAH in a manner which permits prompt preparation of a transcript.

(q) Parties may agree to an informal hearing. Informal hearings shall be conducted without audio-record of proceedings, but each party to the hearing shall be obligated to deliver to the hearing officer by the close of the MAH a written statement of such party's best offer on the issues in the hearing. Within 10 days following the conclusion of the informal MAH, the hearing officer shall render a decision. The decision of the hearing officer shall be final without right of appeal.

(r) Within 20 days following the close of the evidentiary phase of the MAH, the hearing officer shall render a decision. Such decision shall state:

(1) the services, if any, to be provided with some reasonable parameters fixing duration of such services;

(2) the agencies' relative responsibilities for providing and paying for same;

(3) the basic findings of fact upon which such rulings are based;

(4) the legal authority for the ruling.

The decision of the hearing officer is the final decision of the executive office of health and human services.

(s) Within 20 days of the hearing officer's decision, any party to the MAH adversely affected by the decision may serve notice of appeal of such decision to the Superior Court of Suffolk County or the Superior Court of the county in which the custodial parent of the child involved in the hearing resides. While the appeal is pending, each covered agency which is a participant in the MAH shall continue to provide services at the same level and character as the same were being provided when the appeal was initiated. Also, the hearing officer shall retain jurisdiction to issue new or modifications of existing interim protective orders pursuant to section (l) (5).

(t) The grounds for appeal of a MAH decision shall be limited to the following:

(1) the decision of the hearing officer is arbitrary, capricious, or not supported by any substantial evidence; or

(2) the decision of the hearing officer is contrary to law.

(u) An appeal of a MAH decision shall be conducted in accordance with chapter 30A, section 14. Notwithstanding any general or special law to the contrary, interim service orders issued by the hearing officer pursuant to subsection (l) (5) or subsection (m) shall remain in force until the appeal is resolved.

(v) In event a decision of a hearing officer in a MAH proceeding has become or is final whether by reason of its being an order which pursuant section (l)(5) is non-appealable prior to the ultimate resolution of the MAH proceeding, by reason of no appeal being taken, or by reason of being affirmed on appeal, any party may request that a Superior Court to which a final decision in such proceeding might be appealed enforce same by decree of contempt or other decree available to such court for enforcement of its own orders.

(w) The holdings of the MAH hearing officer in a formal or informal proceeding are binding upon the parties to that proceeding. The holdings of the MAH hearing officer in a formal proceeding have precedential value for all subsequent MAH proceedings. The holdings of the MAH hearing officer in a particular formal proceeding have precedential value in all subsequent administrative proceedings undertaken pursuant to legal authority of the covered agencies and such holdings have instructive value to the general course of conduct of covered agencies. The written decisions of the MAH hearing officer shall be maintained in the offices of EOHHS and shall be available, in a form which protects the identity of all parties, free of charge, to the public upon request. The decisions, similarly redacted, shall also be posted on the executive office of health and human services' website in an easily searchable fashion.

(x) The procedures described herein are voluntary and are not in derogation of any rights to hearing or appeal that a child may otherwise have under state or federal law or regulation.

SECTION 5. Section 2 of chapter 15D of the General Laws is hereby amended by inserting after the first paragraph the following new paragraph:—

The department shall:—

(1) provide behavioral health consultation services in early education and care programs for children in the common-

wealth. Preference shall be given to those services designed to limit the number of expulsions and suspensions from these programs. The department shall issue a report, at least annually not later than February 15 of each year, estimating the number of pre-school suspensions and expulsions that occur each year in the commonwealth, the relative frequency of each type of mental illness or behavioral issues among children receiving programs or services from the department, a breakdown of the race and ethnicity of the children served, the capacity of the existing early education and care system to provide such behavioral health services, and an analysis of the most effective intervention and prevention strategies. The report shall be provided, along with recommendations for legislative or regulatory changes, including strategies to improve the delivery of comprehensive services and to improve collaboration and linkages between and among early education and care and human services providers, to the secretary of the executive office of health and human services, the secretary of administration and finance, the senate president, the speaker of the house, the chairs of the house and senate ways and means committees and the house and senate chairs of the joint committee on education.

(2) The department may work with the children's behavioral health research and evaluation council, created by Section 1, and contractors whom the council selects, to provide the department with technical assistance related to its duties.

SECTION 6. Section 1 of chapter 19 of the General Laws is hereby amended by inserting after the last paragraph the following paragraph:—

The department of mental health shall be the leading voice and authority in the design of the commonwealth's behavioral health services for children.

(a) To achieve this goal, the department of social services, the department of youth services, the department of public health, the department of mental retardation, the department of education, the department of early education and care and the office of Medicaid shall not make any decision substantially affecting the financing, operation or regulation of, or contracts pertaining to, the provision

of behavioral health services to children in the commonwealth until it has consulted with the department of mental health, and received from the commissioner of mental health a report commenting on the decision, which the agency seeking such consultation shall take into consideration before any such final decision is made.

(b) The commissioner of mental health shall have 15 business days from the date of notice is given regarding the proposed decision to issue such report.

(c) If the agency seeking consultation disagrees with the comments of the commissioner of mental health, it shall inform the secretary of health and human services of the disagreement and provide the secretary a reasonable opportunity to mediate and resolve said disagreements.

(d) The department of mental health shall publish on a regular basis, but no less than annually, a report on the state of children's behavioral health in the commonwealth, documenting in narrative and statistical formats the demand, services delivered, cost of services, and service gaps for children across state agencies, and the specific measures that, in the judgment of the department of mental health, are necessary and appropriate to fill such gaps. In its report, the department of mental health shall describe the evidence-based research that has occurred during the report year to determine the effectiveness of the services delivered.

SECTION 7. Chapter 29 of the General Laws is hereby amended by inserting after section 2NNN the following section:—

Section 2OOO. There shall be established and set up on the books of the Commonwealth a separate fund, consisting of monies appropriated to the fund by the general court, known as the Interim Residential Placement Fund. The department of mental health shall use this fund to expedite the discharge of children and adolescents with behavioral health needs from inpatient to residential or community-based settings.

(a) Any child enrolled in the MassHealth program who is also a client of another state agency within the executive office of health and human services, and who has been determined no longer to need an inpatient level of service by both the inpatient facility and the relevant utilization review team, may be eligible to access said funds.

(b) Funds may be used to pay for up to 30 days of interim residential, step-down or community-based services for an individual child.

(c) The department of mental health shall enter into such interagency agreements as are necessary to carry out the purposes of this section, including such agreements necessary to maximize federal reimbursement for children eligible for MassHealth services.

(d) The department of mental health shall within the 30 day time period utilize the multi-agency teams set forth in section 3, or similar previously existing interagency groups, to develop a permanent treatment plan. The treatment plan shall specifically assign case management and funding responsibilities among relevant state agencies and their contractors, including but not limited to, the office of Medicaid, the department of mental health, the department of social services, the department of mental retardation, the department of youth services and the department of public health.

(e) Where relevant to the child or adolescent's permanent treatment plan, the department shall request participation from the appropriate local education authority. In developing the treatment plan, the multi agency team may propose a financial contribution from the local education authority. This proposal shall be admissible evidence in any special education hearing or proceeding arising under the provision of Chapter 71B.

SECTION 8. Section 22 of chapter 32A of the General Laws is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:—

(a) The commission shall provide to any active or retired employee of the commonwealth, who is insured under the group insurance commission, coverage on a nondiscriminatory basis for the diagnosis and treatment of any mental disorders, as described in the most recent edition of the Diagnostic and Statistical Manual of the American Psychiatric Association, referred to in this section as "the DSM" or the most recent edition of the International Classification of Diseases and Related Health Problems, hereinafter referred to as "the ICD".

SECTION 9. Said section 22 of said chapter 32A is hereby further amended by striking out subsection (c) and inserting in place thereof the following subsection:—

(c) In addition to the coverage established pursuant to this section, any such health plan shall also provide coverage on a non-discriminatory basis for children and adolescents up to the age of 21 for the diagnosis and treatment of any mental disorders, as described in the most recent edition of the Diagnostic Classification of Mental Health and Developmental Disorders of Infancy and Early Childhood, Diagnostic and Statistical Manual of the American Psychiatric Association, referred to in this section as "the DSM" or the most recent edition of the International Classification of Diseases and Related Health Problems, hereinafter referred to as "the ICD".

SECTION 10. Said section 22 of said chapter 32A is hereby further amended by striking out subsection (e).

SECTION 11. Said section 22 of said chapter 32A is hereby further amended by striking out subsection (g) and inserting in place thereof the following:—

(g)(1) The coverage authorized pursuant to this section shall consist of a range of inpatient, intermediate, and outpatient services that shall permit medically necessary and active and non-custodial treatment for said mental disorders to take place in the least restrictive clinically appropriate setting and for children and adolescents under the age of 19, shall include any and all collateral services.

(2) For purposes of this section, inpatient services may be provided in a general hospital licensed to provide such services, in a facility under the direction and supervision of the department of mental health, in a private mental hospital licensed by the department of mental health, or in a substance abuse facility licensed by the department of public health. Intermediate services for behavioral health needs shall be provided along a continuum that is sufficient to respond to members' behavioral health needs in a manner that is equivalent to the continuum of services provided for physical health needs. In order to achieve said equivalency, the continuum of intermediate services shall be of sufficient

extent and variety to address the complex needs of children with behavioral health needs. Intermediate services shall include, but not be limited to, Level III community-based detoxification, acute residential treatment, partial hospitalization, day treatment and crisis stabilization licensed or approved by the department of public health or the department of mental health. Outpatient services may be provided in a licensed hospital, a mental health or substance abuse clinic licensed by the department of public health, a public community mental health center, a professional office, or home-based services, provided, however, services delivered in such offices or settings are rendered by a licensed mental health professional acting within the scope of his license.

SECTION 12. Subsection (i) of said section 22 of said chapter 32A is hereby further amended by adding after the last paragraph, the following new paragraph:—

For purposes of this section, "collateral services" shall mean any and all consultation by a licensed mental health professional with parties determined by the licensed mental health professional to be relevant or necessary to the treatment of a child or adolescent under age 19 in order to make a diagnosis, identify and plan for needed services, coordinate and implement a treatment plan, review progress, and revise and implement the treatment plan as needed to ensure appropriate care.

SECTION 13. Chapter 71 of the General Laws is hereby amended by striking section 53 and inserting in place thereof the following:—

Section 53. The school committee shall appoint school physicians; nurse practitioners and registered nurses with the department of education school nurse licensure, shall assign them to the public schools within its jurisdiction, shall provide them with all the proper facilities for the performance of their duties, and shall assign one or more physicians or nurse practitioners operating under the direction of the physician to the examination of children who apply for health certificates required by section eighty-seven of chapter one hundred forty-nine, but in cities where the medical inspection hereinafter prescribed is substantially provided by the board of health, said board shall appoint and assign the school

physicians; nurse practitioners and registered nurses with department of education school nurse licensure, provided however that school districts must meet minimum staffing requirements of school physicians; nurse practitioners and registered nurses with department of education school nurse licensure established by the Department of Public Health and that each school with five hundred or more students shall be assigned at minimum one full-time physician, nurse practitioner or registered nurse with department of education school nurse licensure.

SECTION 14. Clause (b) of subsection 2 of section 9A of chapter 118E of the General Laws is hereby amended by striking out the figure "18" and inserting in place thereof the following figure:— 20.

SECTION 15. Clause (c) of subsection 2 of section 9A of chapter 118E of the General Laws is hereby amended by striking out the figure "18" and inserting in place thereof the following figure:— 20.

SECTION 16. Clause (d) of subsection 2 of section 9A of chapter 118E of the General Laws is hereby amended by striking out the figure "19" and inserting in place thereof the figure:— 21.

SECTION 17. Chapter 118E of the General Laws is hereby amended by inserting after section 10F, the following new section:—

Section 10G. (a) The division shall provide coverage for the cost of any and all collateral mental health services to children and adolescent members under the age of 19 to be performed by a licensed mental health professional. Nothing contained in this section shall be construed to abrogate any obligation to provide coverage for mental health services pursuant to any law or regulation of the commonwealth or the United States or under the terms or provisions of any policy, contract, or certificate. For the purposes of this section, "collateral services" shall mean any and all consultation by a licensed mental health professional with parties determined by said licensed mental health professional to be relevant or necessary to the treatment of a child or adolescent under

age 19 in order to make a diagnosis, identify and plan for needed services, coordinate and implement a treatment plan, review progress, and revise and implement the treatment plan as needed to ensure appropriate care.

(b) For purposes of this section, "licensed mental health professional" shall mean a licensed physician who specializes in the practice of psychiatry, a licensed psychologist, a licensed independent clinical social worker, a licensed mental health counselor, a licensed educational psychologist or a licensed nurse mental health clinical specialist.

SECTION 18. Subsection 1 of section 16C of chapter 118E of the General Laws is hereby amended by striking out the figure "18" and inserting in place thereof the figure:— 20.

SECTION 19. Section 47B of chapter 175 of the General Laws is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:—

(a) Any individual policy of accident and sickness insurance issued pursuant to section 108, which provides hospital expense and surgical expense insurance, and any group blanket or general policy of accident and sickness insurance issued pursuant to section 110, which provides hospital expense and surgical expense insurance, which is issued or renewed within or without the commonwealth, shall provide mental health benefits on a nondiscriminatory basis to residents of the commonwealth and to all policyholders having a principal place of employment in the commonwealth for the diagnosis and treatment of any mental disorders, as described in the most recent edition of the Diagnostic and Statistical Manual of the American Psychiatric Association, referred to in this section as "the DSM" or the most recent edition of the International Classification of Diseases and Related Health Problems, hereinafter referred to as "the ICD".

SECTION 20. Said section 47B of said chapter 175 is hereby further amended by striking out subsection (c) and inserting in place thereof the following subsection:—

(c) In addition to the mental health benefits established pursuant to this section, any such policy shall also provide benefits on a non-discriminatory basis for children and adolescents up to the age of 21 for the diagnosis and treatment of any mental disorders, as described in the most recent edition of the Diagnostic Classification of Mental Health and Developmental Disorders of Infancy and Early Childhood, the Diagnostic and Statistical Manual of the American Psychiatric Association, referred to in this section as "the DSM" or the most recent edition of the International Classification of Diseases and Related Health Problems, hereinafter referred to as "the ICD".

SECTION 21. Said section 47B of said chapter 175 is hereby further amended by striking out subsection (e).

SECTION 22. Said section 47B of said chapter 175 is hereby further amended by striking out subsection (g) and inserting in place thereof the following:—

(g)(1) The coverage authorized pursuant to this section shall consist of a range of inpatient, intermediate, and outpatient services that shall permit medically necessary and active and non-custodial treatment for said mental disorders to take place in the least restrictive clinically appropriate setting and for children and adolescents under the age of 19, shall include any and all collateral services.

(2) For purposes of this section, inpatient services may be provided in a general hospital licensed to provide such services, in a facility under the direction and supervision of the department of mental health, in a private mental hospital licensed by the department of mental health, or in a substance abuse facility licensed by the department of public health. Intermediate services for behavioral health needs shall be provided along a continuum that is sufficient to respond to members' behavioral health needs in a manner that is equivalent to the continuum of services provided for physical health needs. In order to achieve said equivalency, the continuum of intermediate services shall be of sufficient extent and variety to address the complex needs of children with behavioral health needs.

Intermediate services shall include, but not be limited to, Level III community-based detoxification, acute residential treatment, partial hospitalization, day treatment and crisis stabilization licensed or approved by the department of public health or the department of mental health. Outpatient services may be provided in a licensed hospital, a mental health or substance abuse clinic licensed by the department of public health, a public community mental health center, a professional office, or home-based services, provided, however, services delivered in such offices or settings are rendered by a licensed mental health professional acting within the scope of his license.

SECTION 23. Subsection (i) of said section 47B of said chapter 175 is hereby further amended by adding, after the last paragraph, the following:—

For the purposes of this section, "collateral services" shall mean any and all consultation by a licensed mental health professional with parties determined by said licensed mental health professional to be relevant or necessary to the treatment of a child or adolescent under age 19 in order to make a diagnosis, identify and plan for needed services, coordinate and implement a treatment plan, review progress, and revise and implement the treatment plan as needed to ensure appropriate care.

SECTION 24. Section 8A of chapter 176A of the General Laws is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:—

(a) Any contract between a subscriber and the corporation under an individual or group hospital service plan which is issued or renewed within or without the commonwealth shall provide mental health benefits on a non-discriminatory basis to residents of the commonwealth and to all individual subscribers and members and group members having a principal place of employment in the commonwealth for the diagnosis and treatment of any mental disorders, as described in the most recent edition of the Diagnostic and Statistical Manual of the American Psychiatric Association, referred to in this section as "the DSM" or the most recent

edition of the International Classification of Diseases and Related Health Problems, hereinafter referred to as "the ICD".

SECTION 25. Said section 8A of said chapter 176A is hereby further amended by striking out subsection (c) and inserting in place thereof the following:—

(c) In addition to the mental health benefits established pursuant to this section, any such contract shall also provide benefits on a non-discriminatory basis for children and adolescents up to the age of 21 for the diagnosis and treatment of any mental disorders, as described in the most recent edition of the Diagnostic Classification of Mental Health and Developmental Disorders of Infancy and Early Childhood, the Diagnostic and Statistical Manual of the American Psychiatric Association, referred to in this section as "the DSM" or the most recent edition of the International Classification of Diseases and Related Health Problems, hereinafter referred to as "the ICD".

SECTION 26. Said section 8A of said chapter 176A is hereby further amended by striking out subsection (e).

SECTION 27. Said section 8A of said chapter 176A is hereby further amended by striking out subsection (g) and inserting in place thereof the following:—

(g)(1) The coverage authorized pursuant to this section shall consist of a range of inpatient, intermediate, and outpatient services that shall permit medically necessary and active and non-custodial treatment for said mental disorders to take place in the least restrictive clinically appropriate setting and for children and adolescents under the age of 19, shall include any and all collateral services.

(2) For purposes of this section, inpatient services may be provided in a general hospital licensed to provide such services, in a facility under the direction and supervision of the department of mental health, in a private mental hospital licensed by the department of mental health, or in a substance abuse facility licensed by the department of public health. Intermediate services for behavioral health needs shall be provided along a continuum that is sufficient to respond to members' behavioral health needs in a

manner that is equivalent to the continuum of services provided for physical health needs. In order to achieve said equivalency, the continuum of intermediate services shall be of sufficient extent and variety to address the complex needs of children with behavioral health needs.

Intermediate services shall include, but not be limited to, Level III community-based detoxification, acute residential treatment, partial hospitalization, day treatment and crisis stabilization licensed or approved by the department of public health or the department of mental health. Outpatient services may be provided in a licensed hospital, a mental health or substance abuse clinic licensed by the department of public health, a public community mental health center, a professional office, or home-based services, provided, however, services delivered in such offices or settings are rendered by a licensed mental health professional acting within the scope of his license.

SECTION 28. Subsection (i) of said section 8A of said chapter 176A is hereby further amended by adding, after the last paragraph, the following new paragraph:—

For the purposes of this section, "collateral services" shall mean any and all consultation by a licensed mental health professional with parties determined by said licensed mental health professional to be relevant or necessary to the treatment of a child or adolescent under age 19 in order to make a diagnosis, identify and plan for needed services, coordinate and implement a treatment plan, review progress, and revise and implement the treatment plan as needed to ensure appropriate care.

SECTION 29. Section 4A of chapter 176B of the General Laws is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:—

(a) Any subscription certificate under an individual or group medical service agreement which is issued or renewed within or without the commonwealth shall provide mental health benefits on a non-discriminatory basis to residents of the commonwealth and to all individual subscribers and members within the commonwealth and to all group members having a principal place of employment in the commonwealth for the diagnosis and treatment

of any mental disorders, as described in the most recent edition of the Diagnostic and Statistical Manual of the American Psychiatric Association, referred to in this section as "the DSM" or the most recent edition of the International Classification of Diseases and Related Health Problems, hereinafter referred to as "the ICD".

SECTION 30. Said section 4A of said chapter 176B is hereby further amended by striking out subsection (c) and inserting in place thereof the following subsection:—

(c) In addition to the mental health benefits established pursuant to this section, any such subscription certificate shall also provide benefits on a non-discriminatory basis for children and adolescents up to the age of 21 for the diagnosis and treatment of any mental disorders, as described in the most recent edition of the Diagnostic Classification of Mental Health and Developmental Disorders of Infancy and Early Childhood, the Diagnostic and Statistical Manual of the American Psychiatric Association, referred to in this section as "the DSM" or the most recent edition of the International Classification of Diseases and Related Health Problems, hereinafter referred to as "the ICD".

SECTION 31. Said section 4A of said chapter 176B is hereby further amended by striking out subsection (e).

SECTION 32. Said section 4A of said chapter 176B is hereby further amended by striking out subsection (g) and inserting in place thereof the following:—

(g)(1) The coverage authorized pursuant to this section shall consist of a range of inpatient, intermediate, and outpatient services that shall permit medically necessary and active and noncustodial treatment for said mental disorders to take place in the least restrictive clinically appropriate setting and for children and adolescents under the age of 19, shall include any and all collateral services.

(2) For purposes of this section, inpatient services may be provided in a general hospital licensed to provide such services, in a facility under the direction and supervision of the department of mental health, in a private mental hospital licensed by the department of mental health, or in a substance abuse facility licensed by

the department of public health. Intermediate services for behavioral health needs shall be provided along a continuum that is sufficient to respond to members' behavioral health needs in a manner that is equivalent to the continuum of services provided for physical health needs. In order to achieve said equivalency, the continuum of intermediate services shall be of sufficient extent and variety to address the complex needs of children with behavioral health needs. Intermediate services shall include, but not be limited to, Level III community-based detoxification, acute residential treatment, partial hospitalization, day treatment and crisis stabilization licensed or approved by the department of public health or the department of mental health. Outpatient services may be provided in a licensed hospital, a mental health or substance abuse clinic licensed by the department of public health, a public community mental health center, a professional office, or home-based services, provided, however, services delivered in such offices or settings are rendered by a licensed mental health professional acting within the scope of his license.

SECTION 33. Subsection (i) of said section 4A of said chapter 176B is hereby amended by adding, after the last paragraph, the following new paragraph:—

For the purposes of this section, "collateral services" shall mean any and all consultation by a licensed mental health professional with parties determined by said licensed mental health professional to be relevant or necessary to the treatment of a child or adolescent under age 19 in order to make a diagnosis, identify and plan for needed services, coordinate and implement a treatment plan, review progress, and revise and implement the treatment plan as needed to ensure appropriate care.

SECTION 34. Section 1 of chapter 176G of the General Laws is hereby amended by adding after the definition of "carrier" the following:—

"Carve out", a company organized under the laws of the commonwealth or organized under the laws of another state and qualified to do business in the commonwealth, that has entered into a contractual arrangement with a health maintenance organization to provide or arrange for the provision of behavioral health services

to voluntarily enrolled members of said health maintenance organization.

SECTION 35. Section 4M of chapter 176G of the General Laws is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:—

(a) A health maintenance contract issued or renewed within or without the commonwealth shall provide mental health benefits on a non-discriminatory basis to residents of the commonwealth and to all members or enrollees having a principal place of employment in the commonwealth for the diagnosis and treatment of any mental disorders, as described in the most recent edition of the Diagnostic and Statistical Manual of the American Psychiatric Association, referred to in this section as "the DSM" or the most recent edition of the International Classification of Diseases and Related Health Problems, hereinafter referred to as "the ICD".

SECTION 36. Said section 4M of said chapter 176G is hereby further amended by striking out subsection (c) and inserting in place thereof the following subsection:—

(c) In addition to the mental health benefits established pursuant to this section, any such health maintenance contract shall also provide benefits on a non-discriminatory basis for children and adolescents up to the age of 21 for the diagnosis and treatment of any mental disorders, as described in the most recent edition of the Diagnostic Classification of Mental Health and Developmental Disorders of Infancy and Early Childhood, the Diagnostic and Statistical Manual of the American Psychiatric Association, referred to in this section as "the DSM" or the most recent edition of the International Classification of Diseases and Related Health Problems, hereinafter referred to as "the ICD".

SECTION 37. Said section 4M of said chapter 176G is hereby further amended by striking out subsection (e).

SECTION 38. Said section 4M of said chapter 176G is hereby further amended by striking out subsection (g) and inserting in place thereof the following:—

(g)(1) The coverage authorized pursuant to this section shall consist of a range of inpatient, intermediate, and outpatient services that shall permit medically necessary and active and noncustodial treatment for said mental disorders to take place in the least restrictive clinically appropriate setting and for children and adolescents under the age of 19, shall include any and all collateral services.

(2) For purposes of this section, inpatient services may be provided in a general hospital licensed to provide such services, in a facility under the direction and supervision of the department of mental health, in a private mental hospital licensed by the department of mental health, or in a substance abuse facility licensed by the department of public health. Intermediate services for behavioral health needs shall be provided along a continuum that is sufficient to respond to members' behavioral health needs in a manner that is equivalent to the continuum of services provided for physical health needs. In order to achieve said equivalency, the continuum of intermediate services shall be of sufficient extent and variety to address the complex needs of children with behavioral health needs.

Intermediate services shall include, but not be limited to, Level III community-based detoxification, acute residential treatment, partial hospitalization, day treatment and crisis stabilization licensed or approved by the department of public health or the department of mental health. Outpatient services may be provided in a licensed hospital, a mental health or substance abuse clinic licensed by the department of public health, a public community mental health center, a professional office, or home-based services, provided, however, services delivered in such offices or settings are rendered by a licensed mental health professional acting within the scope of his license.

SECTION 39. Said section 4M of said chapter 176G is hereby further amended by adding, after the last paragraph (i), the following new paragraph:—

For the purposes of this section, "collateral services" shall mean any and all consultation by a licensed mental health professional with parties determined by said licensed mental health professional to be relevant or necessary to the treatment of a child or

adolescent under age 19 in order to make a diagnosis, identify and plan for needed services, coordinate and implement a treatment plan, review progress, and revise and implement the treatment plan as needed to ensure appropriate care.

SECTION 40. Section 10 of chapter 176G of the General Laws is hereby amended by inserting after the phrase, "Every health maintenance organization", every time it appears, the following words:— and carve out.

SECTION 41. Chapter 176G of the General Laws is hereby amended by inserting after section 29 the following new sections:—

Section 30. Any health maintenance organization for whom a carve-out is administering behavioral and mental health services, shall be responsible for the carve-out's failure to comply with the requirements of said chapter 176G in the same manner as if the health maintenance organization failed to comply with said provisions.

SECTION 42. Chapter 176G of the General Laws is hereby amended by inserting after section 30 the following section:—

Section 31. Any health maintenance organization for whom a carve-out is administering behavioral and mental health services, shall state on its enrollment card the name of the carve-out and its telephone number to ensure coverage for such services.

SECTION 43. Chapter 176G of the General Laws is hereby amended by adding the following section:—

Section 32. (a) A carve out shall provide to at least one adult insured in each household upon enrollment, and to a prospective insured upon request, the following information

(1) a statement that physician profiling information, so-called, may be available from the Board of Registration in Medicine for physicians licensed to practice in Massachusetts;

(2) a summary description of the process by which clinical guidelines and utilization review criteria are developed;

(3) a notice to insured regarding emergency medical conditions that states all of the following:

(i) that insured have the opportunity to obtain health care services for an emergency medical condition, including the option of calling the local pre-hospital emergency medical service system by dialing the emergency telephone access number 911, or its local equivalent, whenever the insured is confronted with an emergency medical condition which in the judgment of a prudent layperson would require pre-hospital emergency services;

(ii) that no insured shall in any way be discouraged from using the local pre-hospital emergency medical service system, the 911 telephone number, or the local equivalent;

(iii) that no insured will be denied coverage for medical and transportation expenses incurred as a result of such emergency medical condition; and

(iv) if the carve out requires an insured to contact either the carve out or its designee or the primary care physician of the insured within 48 hours of receiving emergency services, that notification already given to the carve out, designee or primary care physician by the attending emergency physician shall satisfy that requirement.

(4) a statement that the Office of Patient Protection, as described in chapter 176O and regulations promulgate pursuant thereto is available to the insured or prospective insured.

(i) The information required by this section may be contained in the evidence of coverage and need not be provided in a separate document.

(ii) Every disclosure described in this section must contain the effective date, date of issue and, if applicable, expiration date.

(iii) Carve outs shall submit material changes to the disclosures required by this section to the Bureau at least 30 days before their effective dates.

(iv) Carve outs shall submit material changes to the disclosures required by to at least one adult insured in every household residing in Massachusetts at least once every two years.

(v) A carve out that provides specified services through a workers' compensation preferred provider arrangement shall be deemed to have met the requirements of this section if it has met the requirements of 211 CMR 112.00 and 452 CMR 6.00.

SECTION 44. Subsection (a) of Section 7 of chapter 176O of the General Laws is hereby further amended by inserting after clause (6) the following new clause:—

(7) a statement that an insured has the right to request referral assistance from a carrier if the insured, or his or her primary care physician, has difficulty identifying services within the carrier's network; that the carrier shall, upon request by the insured, identify and confirm the availability of these services directly; and that if necessary, the carrier must obtain services out-of-network if they are unavailable from within the network.

SECTION 45. Subsection (b) of Section 7 of chapter 176O of the General Laws is hereby further amended by inserting after clause (4) the following clause:—

(5) a report, submitted annually, that details the following: the number of times per year an insured seeks assistance from the carrier in obtaining a referral for inpatient mental and behavioral health services; outpatient mental and behavioral health services; and for those inpatient and outpatient services obtained that are provided out-of-network due to their unavailability within the network. The reporting for each of these 3 categories must list adults and children separately. The reporting must also be further subdivided into regional totals, the geographic regions as defined by the department of mental health in accordance with 104 CMR 26.02.

SECTION 46. (a) Notwithstanding any general or special law to the contrary, the office of Medicaid shall convene a working group on the early identification of developmental, mental health, and substance abuse problems in the pediatric primary care setting. The working group shall include representatives from the pediatric, mental health, and substance abuse communities, as well as patient and child advocacy organizations.

(1) The working group shall review the office's current regulations regarding the early and periodic screening, diagnosis and treatment program, and make recommendations for changes, as appropriate, in the periodicity of said screenings, the recommended tools to be used for said screenings, and the appropriate treatment protocols when screening reveals the need for further

treatment. The working group shall also make recommendations regarding training and education strategies for pediatric providers in the use of recommended screening tools.

(b) Notwithstanding any general or special law to the contrary, the office of Medicaid and the division of health care finance and policy shall develop one or more reimbursement rates and billing codes for use by pediatric providers conducting developmental, mental health, or substance abuse screenings. Said rates shall be reasonably calculated to cover the cost of screening tools, and the additional time commitment necessary to screen, score and interpret the results. Screenings shall be reimbursed separately from the standard office visit case rate for children enrolled in the MassHealth program. The office of Medicaid shall require that any managed care organization contracting with the state to provide services to children enrolled in the MassHealth program shall separately reimburse for such services.

SECTION 47. Notwithstanding any general or special law to the contrary, the department of education shall, no later than December 31, 2008, develop and pilot in no less than 10 school districts evaluation criteria and benchmarks for assessing the capacity of school districts and individual schools to address student behavioral health issues. The evaluation criteria and benchmarks shall facilitate a school districts ability to assess its current utilization, staffing, capacity and funding of behavioral health services, and shall allow for aggregation of data on a statewide level.

In the development of the evaluation criteria and benchmarks, the department shall engage public and private entities who are responsible for servicing these students. The evaluation criteria and benchmarks shall build upon existing research, programs and initiatives related to addressing behavioral health issues in the school setting. The evaluation criteria and benchmarks shall take into consideration, at a minimum, the following:

(a) School enrollment data, including the number of students enrolled in special education programs with identified behavioral health needs. To the extent possible, the evaluation criteria shall assist schools in projecting the prevalence of behavioral health concerns at the district and individual school level;

(b) The staffing available to address student behavioral health concerns, including both dedicated school personnel and contracted personnel. The staffing assessment shall consider the education and qualifications of said personnel, their level of experience, and their job titles or job classifications;

(c) The availability and utilization of school counseling services, and external referral resources available,

(d) The use of specific health, anti-bullying, anti-violence or other curricula in the school designed to address behavioral health concerns.

The department shall serve as the lead agency for providing assistance to pilot districts in the use of the evaluation criteria and benchmarks. Agencies or other public entities that the department determines are necessary to assist in this effort shall provide such assistance.

The department shall file any comprehensive report or strategy developed under this section with the joint committee on education, arts and humanities, the joint committee on mental health and substance abuse and the joint committee on children and families.

SECTION 48. Notwithstanding any general or special law to the contrary, the MassHealth behavioral health contractor, in collaboration with the department of mental health and the department of education, shall develop a proposal for the provision of mental health consultative services to schools.

The proposal, to the extent possible, shall adapt the Massachusetts Child Psychiatry Access Project. Consultative services available under this proposal shall include emergency triage, prevention, early intervention and classroom based approaches to mental health care, and shall provide for teacher and staff training, and parent support, in effective mental health identification and treatment strategies.